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**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ENRIQUE GARCIA MONTANO,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-76536

Agency No. A96-049-374

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted February 13, 2006^{**}

Before: FERNANDEZ, RYMER, and BYBEE, Circuit Judges.

Enrique Garcia Montano, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's order denying Garcia Montano's application for cancellation

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

of removal. To the extent we have jurisdiction, it is pursuant to 8 U.S.C. § 1252. We review de novo claims of constitutional violations in immigration proceedings. *See Ram v. INS*, 243 F.3d 510, 516 (9th Cir. 2000). We deny in part and dismiss in part the petition for review.

Contrary to Garcia Montano's contention, Congress comported with equal protection when it repealed suspension of deportation for aliens, such as Garcia Montano, who were placed in removal proceedings on or after April 1, 1997, while permitting aliens placed in deportation before that date to maintain their applications for suspension of deportation. *See Hernandez-Mezquita v. Ashcroft*, 293 F.3d 1161, 1163-65 (9th Cir. 2002); *Vasquez-Zavala v. Ashcroft*, 324 F.3d 1105, 1108 (9th Cir. 2003).

To the extent Garcia Montano challenges the agency's decision to commence removal rather than deportation proceedings against him, we are without jurisdiction to review this decision. *See* 8 U.S.C. § 1252(g); *Jimenez-Angeles v. Ashcroft*, 291 F.3d 594, 599 (9th Cir. 2002) (noting that this court lacks jurisdiction "to review the timing of the Attorney General's decision to commence proceedings.") (internal citations and quotation marks omitted).

PETITION FOR REVIEW DENIED in part, and DISMISSED in part.